

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of FORSYTH, Minors.

UNPUBLISHED

April 15, 2014

No. 318400

Tuscola Circuit Court

Family Division

LC No. 12-010410-NA

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Before: SERVITTO, P.J., and FORT HOOD and BECKERING, JJ.

PER CURIAM.

Respondent appeals as of right the termination of his parental rights to his two minor children. We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b has been proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 350; 612 NW2d 407 (2000); *In re Fried*, 266 Mich App 535, 540-541; 702 NW2d 192 (2005). We review for clear error the trial court's findings on appeal from an order terminating parental rights. *In re Trejo*, 462 Mich at 356-357; see also MCR 3.977(K). A finding is clearly erroneous when, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). Deference is given to the trial court's assessment of the credibility of the witnesses. *In re Newman*, 189 Mich App 61, 65; 472 NW2d 38 (1991).

In this case, the trial court found clear and convincing evidence to terminate respondent's parental rights pursuant to MCL 712A.19b(3)(b)(i), which provides that:

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

Respondent does not contest that finding on appeal. Moreover, the trial court's finding was not clearly erroneous. Respondent pleaded no contest to criminal sexual conduct charges stemming from the sexual abuse of the children's half-sister. Testimony at the termination hearing established that respondent repeatedly sexually assaulted the children's half-sister and that he even admitted as much to police officers during an interview. Although respondent denied the sexual abuse at the termination hearing, the trial court found his testimony lacked credibility, and we defer to the trial court's credibility determination. *In re Newman*, 189 Mich App at 65.

Moreover, there was a reasonable likelihood that the children would be harmed if returned to respondent because “[e]vidence of how a parent treats one child is evidence of how he or she may treat the other children.” *In re Hudson*, 294 Mich App 261, 266; 817 NW2d 115 (2011). Consequently, the trial court did not clearly err in finding that there were statutory grounds to terminate respondent’s parental rights.

Respondent’s sole issue on appeal is his contention that termination of his parental rights was not in the children’s best interests. “If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child’s best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made.” MCL 712A. 19b(5). Whether termination is in the child’s best interests is to be determined by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 83; 836 NW2d 182 (2013). We review for clear error the trial court’s decision regarding the child’s best interests. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356–357; 612 NW2d 407 (2000). When making the best-interest determination, the trial court may consider the child’s need for permanency, stability, and finality. *In re Olive/Metts Minors*, 297 Mich App 35, 41-42; 823 NW2d 144 (2012). The trial court may also consider the bond between the child and the parent, the parent’s ability to parent, and any advantages of a foster home over the parent’s home. *Id.* If multiple children are involved, the trial court must determine the best interests of each child individually. *Id.* at 42.

Here, several witnesses testified to the best interests of the children, including their mother. Even though the mother recognized that respondent cared for his children, she ultimately believed that it was not in their best interests to have a relationship with respondent because of the potential risk for future abuse. Additionally, the reports of the caseworkers indicate that the children were flourishing in their foster-care homes and it was in their best interests to remain there. Specifically, the older child was showing strong verbal growth and making “great strides” in her development. Additionally, the younger child had formed healthy attachments to her caregivers and was progressing at a normal rate for a child of her age.

Although petitioner was attempting to withdraw his plea to the criminal sexual conduct charges at the time of the termination proceedings, according to the Offender Tracking Information System (OTIS), his request was denied, and he was sentenced on four counts of criminal sexual conduct, first degree, MCL 750.520b(1)(b). His earliest release date is in 2024. At the time of his anticipated release, the older child will be approximately the same age as the victim was at the time the abuse occurred. In analyzing the children’s best interests the trial court noted that the respondent appeared to outsiders to provide loving parenting when, in fact, he was abusing the half-sibling of his children. This is well-supported in the record. Given the strong evidence of abuse, the concerns of the mother, and the improving outlook of the children in foster care, it was not clear error for the court to determine that termination was in the best interests of the children.

Affirmed.

/s/ Deborah A. Servitto  
/s/ Karen M. Fort Hood  
/s/ Jane M. Beckering